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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,610	03/23/2004	Toshimitsu Taniguchi	10417-039002 / F51-125462	2451
26211	7590	10/24/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			GEBREMARIAM, SAMUEL A	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/806,610	Applicant(s) TANIGUCHI ET AL.	
	Examiner Samuel A. Gebremariam	Art Unit 2811	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4,5 and 22-26 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-26 is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-2 and 4-5 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,635,925 (925) in view of Soderbarg et al., US patent No. 5,844,272. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Regarding claim 1, claims 1 and 4-5 of US patent No. (925) teaches (col. 6, lines 51-66, col. 7, line 14-col. 8, line 10 and col. 8, lines 18-20) a semiconductor device comprising: high concentration source (heavily-doped) and drain (heavily) layers of a reverse conductive type (conductivity type of the source/drain region is different than the

substrate) formed in a semiconductor layer of one conductive type, a gate electrode formed on a channel layer located between the source and drain layers, a body layer of one conductive type and a low concentration drain layer of the reverse conductive type formed between the channel layer and the high concentration drain layer, wherein: the body layer is formed only under the gate electrode.

(925) does not explicitly state that the body is in direct contact with the high concentration source layer.

It is conventional and also taught by Soderbarg (fig. 3) to form a body region (22) in direct contact with a high concentration source region (24) in a structure of forming a semiconductor device for high voltage application.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the body region in direct contact with the high concentration source region as taught by Soderbarg in order form a transistor structure with improved high breakdown voltage characteristics (col. 2, lines 48-52).

Regarding claim 2, (925) teaches (col. 7, line 13- col. 8, line 10) the entire claimed structure of claim 1 above including the gate electrode is formed on channel layer via a gate oxide film; wherein the high concentration source layer is adjacent to one end of the gate electrode; wherein the high concentration drain layer is formed apart from an other end of the gate electrode; wherein the low concentration drain layer extends from under the gate electrode and surrounds the high concentration drain layer; and wherein the body layer is formed between the high concentration source layer and the high concentration drain layer.

Regarding claim 4, (925) teaches (col. 8, lines 11-15) the entire claimed structure of claim 1 above including the low concentration drain layer is shallow under the gate electrode and deep under the high concentration drain layer.

Regarding claim 5, (925) teaches (col. lines 7-9) the entire claimed structure of claim 1 above including a reverse conductive type layer is formed in a surface portion of the body layer.

***Allowance***

3. Claims 22-26 are allowed over the prior art of record.

***Allowable Subject Matter***

4. The following is an examiner's statement of reasons for allowance: The prior art of record does not teach or suggest, singularly or in combination at least the limitation of "the body layer is in direct contact with the low concentration source and drain layers such that the body layer protrudes from the low concentration source and drain layers in a downward direction" as recited in claim 22 and "the body layer is in direct contact with the low concentration source and drain layers along portions of each side of the body layer, and the body layer extends in a downward direction to a position below bottom most of contact of the body layer with the low concentration source and drain layer" as recited in claim 23.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

5. Applicant's arguments filed 8/11/06 have been fully considered but they are not persuasive. Applicant argues that the grounds of nonstatutory obviousness type double patenting is improper because the present application is a divisional application of the Taniguchi et al. patent which issued on August 31, 2004.

Referring to the prosecution history of application number 09/652,891 (U.S. patent No. 6,635,925), restriction requirement was made between device and method claims. And applicant chose to prosecute device claims. The present application, although is a divisional of 09/652,891 is also directed to device claims and not to method claims. Therefore the obviousness type double patenting rejection is proper.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel A. Gebremariam whose telephone number is (571)-272-1653. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Elms can be reached on (571) 272-1869. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAG  
October 19, 2006

*Douglas W. Owens 10/23/06*

**DOUGLAS W. OWENS**  
**PRIMARY EXAMINER**